

Remarks:

These remarks are responsive to the Office action dated March 26, 2007. Prior to entry of this response, claims 1-14, 19, 21 and 32-39 remained pending in the application. In the Office action, the Examiner rejected claims 1-14 and 32-35 as being anticipated by U.S. Patent Application Publication No. 2004/0163641 A1 to Tyvoll et al. ("Tyvoll") under 35 U.S.C. § 102(e). Further, the Examiner rejected claims 19, 21, and 36-39 under 35 U.S.C. § 103(a) based on Tyvoll. Additionally, the Examiner provisionally rejected claims 1, 6, and 32 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of copending U.S. Patent Application Serial No. 10/777,449 (U.S. Patent Application Publication No. 2005/0172957 A1 to Childers et al. ("Childers")).

Applicant respectfully traverses the rejections. In view of the remarks below, applicant respectfully requests reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

I. Rejections under 35 U.S.C. §§ 102

The Examiner rejected each of claims 1-14 and 32-35 as being anticipated by Tyvoll. Applicant traverses the rejections. The present communication is accompanied by a Declaration from the inventor of the present application. The Declaration is being filed pursuant to 37 C.F.R. § 1.132 and is included as Exhibit A. In the accompanying Declaration, the inventor declares that any aspects of the present invention that are also

disclosed in Tyvoll were derived from him. Accordingly, the subject matter of Tyvoll, cited by the Examiner, does not qualify as prior art under 35 U.S.C. § 102(e) because the subject matter was not invented by another, as required by § 102(e). Therefore, each of claims 1-14 and 32-35 should be allowed.

II. Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 19, 21, and 36-39 under 35 U.S.C. § 103(a) based on Tyvoll. However, pursuant to 35 U.S.C. § 103(c)(1), "[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." Tyvoll may be cited as prior art only under 35 U.S.C. § 102(e).

Statement Concerning Common Ownership

Applicant submits that, pursuant to 35 U.S.C. § 103(c), the subject matter of Tyvoll and the claimed invention were, at the time the invention was made, "owned by the same person or subject to an obligation of assignment to the same person." Specifically, as indicated in the USPTO assignment records at Reel 013715, Frame 0479), Tyvoll was assigned to Hewlett-Packard Development Company, L.P. Applicant hereby submits that he was, at the time the claimed invention was made, under an obligation to assign the invention to Hewlett-Packard Development Company, L.P. Such assignment was made, and is recorded in the USPTO assignment

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records at Reel 014991, Frame 0661. See *Guidelines Setting Forth a Modified Policy Concerning the Evidence of Common Ownership, or an Obligation of Assignment to the Same Person, as Required by 35 U.S.C. § 103(c)*, available at <http://www.uspto.gov/web/offices/com/sol/og/2000/week52/patcommn.htm>.

III. Double Patenting

Claims 1, 6, and 32 were rejected provisionally for obviousness-type double patenting over claims 1-4 of co-pending U.S. Patent Application Serial No. 10/777,449 to Childers. Applicant is filing a terminal disclaimer under 37 C.F.R. § 1.321(c) with the present communication to overcome the rejection for double patenting over the Childers patent application.

IV. Information Disclosure Statement filed July 25, 2005

Copies of foreign patent documents EP1452199, WO2004041340, EP1358902 are attached in the replacement Supplemental IDS for consideration.

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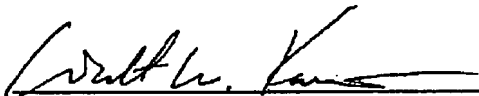
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V. Conclusion

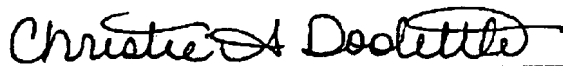
Applicant believes that this application is now in condition for allowance, in view of the foregoing remarks. Accordingly, applicant respectfully requests that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

Respectfully submitted,

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I hereby certify that this correspondence is being facsimile transmitted to Examiner S. Ali, Group Art Unit 3771, Assistant Commissioner for Patents, at facsimile number (571) 273-8300 on June 26, 2007.



Christie A. Doolittle

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

WINTHROP D. CHILDERS

HP Docket No. 200309247-1

Serial No. : 10/777,448

Examiner S. Ali

Filed : February 11, 2004

Group Art Unit 3771

For : MEDICAMENT DISPENSER

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

DECLARATION UNDER § 1.132

I declare as follows:

1. I am an inventor who, on February 11, 2004, filed the above-identified application. At the time of invention of the subject matter of the above-identified application, I was an employee of Hewlett Packard Development Company, L.P.

2. I am also listed as an inventor on U.S. Patent Publication No. 2004/0163641 A1 (US 2004/0163641 A1), which is cited in the Office action dated March 26, 2007. I am the inventor of those aspects of the present application which are disclosed in US 2004/0163641 A1, and which are disclosed and claimed in the present application. Any aspects of the present invention disclosed in US 2004/0163641 A1 were derived from me, and thus are not an invention by another.

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Exhibit A

3. I declare that all statements made herein of my knowledge are true and all statements made on information and belief are believed to be true. These statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code. I understand that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Date: June 20, 2007


Winthrop D. Childers

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Exhibit A